

(2019) 11 P&H CK 0017

In the Punjab And Haryana At Chandigarh

Case No : Review In Civil Writ Petition No. 199 Of 2018 In Civil Writ Petition No. 25263 Of 2015

Shamsher Singh

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 01-11-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 5A, 6

Citation : (2019) 11 P&H CK 0017

Hon'ble Judges : Daya Chaudhary, J;Gurvinder Singh Gill, J

Bench : Division Bench

Advocate : Hardeep Singh Dhillon, Vikram Singh

Final Decision : Dismissed

Judgement

Daya Chaudhary, J

CM No.10397-CWP of 2018

This application is for placing on record Annexure A-1. Application is allowed and Annexure A-1 annexed with the application is taken on record.

RA-CW No. 199 of 2018

Notice in the application.

On asking of the Court, Mr. Ankur Mittal, Addl. A. G., Haryana accepts notice on behalf of the respondents.

Applicant-petitioner filed CWP No.25263 of 2015 for quashing of notifications issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (for short - "the Act") as well as the award passed by the Land Acquisition Collector, which was dismissed by this Court vide judgment/order dated 16.11.2017 by holding that notifications under Sections 4 and 6 of the Act were issued on 11.07.2006 and 16.07.2007, respectively; the award was pronounced on 23.06.2009 and the

applicant-petitioner never raised any grievance as no objection was raised under Section 5A of the Act, even after passing of the award. It was also mentioned in the order that no construction was existing on the plot of the petitioner prior to issuance of the notification under Section 4 of the Act and it was raised subsequently and FIR No.867 dated 25.09.2015 was also registered against him. Said petition was filed after a period of more than 6 years after announcement of the award.

Now the present review application has been filed on the ground that pick and choose policy has been adopted by the respondent-authorities while releasing land of some of the persons, whose land was acquired but claim of the applicant has not been considered.

Learned counsel for the applicant-petitioner submits that objections under Section 5A of the Act were raised but those objections were not taken into consideration. A wrong finding was recorded while dismissing the petition of the petitioner stating that no objections were filed, whereas objections were filed but the same were not taken into consideration.

Learned State counsel has opposed the submissions made by learned counsel for the applicant-petitioner on the ground that no constructions was there at the time of issuance of notification under Section 4 of the Act and the construction was raised subsequently. It has wrongly been mentioned by the applicant-petitioner that objections under Section 5A of the Act were filed, whereas no such objections were filed. Compensation was not accepted by the applicant-petitioner and the same was deposited with the Land Acquisition Collector. Learned State counsel also submits that there was delay of more than 6 years in filing the main writ petition after passing of the award and the petition was dismissed not only on the ground of delay but on merits as well.

Heard arguments of learned counsel appearing for the parties. We have also perused judgment/order passed by this Court on 16.11.2017 as well as the order passed by Hon'ble the Apex Court.

Issuance of notifications under Section 4 and 6 of the Act as well as passing of the award are not disputed. Nothing has been shown to this Court by learned counsel for the applicant as to whether any objection was filed under Section 5A of the Act. Neither it has been attached with the review application nor it has been shown to the Court. In spite of asking, no record whatsoever has been shown by learned counsel for the review applicant that objections were filed under Section 5A of the Act, even after passing of the award.

Judgment/order dated 16.11.2017 passed by this Court was challenged before Hon'ble the Apex Court and SLP filed by the applicant-petitioner was dismissed as withdrawn with liberty to file review application before this Court. It appears that wrong facts were mentioned regarding filing of objections under Section 5A of the Act, whereas no objections were filed under Section 5A of the Act even after passing of the award. No such document/objections have been brought to

the notice of this Court and no such documents have been annexed with the review application. Moreover, writ petition was dismissed not only on this sole ground of non-filing of objections under Section 5A of the Act but on the ground of delay as well.

Review is not rehearing of the original case. Power of review should not be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court. The scope of power of review is very limited as it is to be confined strictly only to the errors which are apparent on the face of record. In case the arguments raised in the review application have been dealt with in the judgment passed, the party is at liberty to challenge the impugned judgment. It is not a case of discovery of new and important facts which were not raised at the time of arguing the case before this Court or certain facts which were not in the knowledge of the applicant at the time of hearing of the case before this Court. The power of review can be exercised in case the Court is satisfied that there is an error apparent on the face of the order, which has resulted into miscarriage of justice or some error is there which is said to be material in nature.

Accordingly, keeping in view the facts as mentioned above, no ground is made out to review judgment dated 08.11.2017 and the present review application is dismissed.